



General Assembly

January Session, 2003

***Raised Bill No. 496***

LCO No. 2523

Referred to Committee on General Law

Introduced by:  
(GL)

***AN ACT CONCERNING MINOR REVISIONS TO THE NEW HOME  
CONSTRUCTION ACT, THE HOME IMPROVEMENT CONTRACTOR  
ACT AND THE HOME SOLICITATION SALES ACT.***

Be it enacted by the Senate and House of Representatives in General  
Assembly convened:

1 Section 1. Section 20-417a of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2003*):

3 As used in this section, sections 20-417b to 20-417i, inclusive, and  
4 subsection (b) of section 20-421:

5 (1) "Certificate" means a certificate of registration issued under  
6 section 20-417b;

7 (2) "Commissioner" means the Commissioner of Consumer  
8 Protection or any person designated by the commissioner to  
9 administer and enforce this section, sections 20-417b to 20-417i,  
10 inclusive, and subsection (b) of section 20-421;

11 (3) "Contract" means any agreement between a new home  
12 construction contractor and a consumer for the construction or sale of a  
13 new home or portion of a new home prior to occupancy;

14 (4) "Engage in the business" means that the person engages in the  
15 business for the purpose of compensation or profit;

16 (5) "New home construction contractor" means any person who  
17 contracts with a consumer to construct or sell a new home or any  
18 portion of a new home prior to occupancy;

19 (6) "New home" means any newly constructed (A) single family  
20 dwelling unit, (B) dwelling consisting of not more than two units, or  
21 (C) unit, common element or limited common element in a  
22 condominium, as defined in section 47-68a, or in a common interest  
23 community, as defined in section 47-202;

24 (7) "Person" means one or more individuals, partnerships,  
25 associations, corporations, limited liability companies, business trusts,  
26 legal representatives or any organized group of persons;

27 (8) "Consumer" means the buyer or prospective buyer, or the  
28 buyer's or prospective buyer's heirs or designated representatives, of  
29 any new home or the owner of property on which a new home is being  
30 or will be constructed regardless of whether such owner obtains a  
31 building permit as the owner of the premises affected pursuant to  
32 section 29-263; and

33 (9) "Completion" means the stage of construction of a new home in  
34 which the new home construction contractor is in receipt of such new  
35 home's certificate of occupancy issued by the municipality in which  
36 such new home is constructed.

37 Sec. 2. Subsection (d) of section 20-417d of the general statutes is  
38 repealed and the following is substituted in lieu thereof (*Effective*  
39 *October 1, 2003*):

40 (d) No person shall: (1) Present, or attempt to present as such  
41 person's own, the certificate of another; (2) knowingly give false  
42 evidence of a material nature to the commissioner for the purpose of

43 procuring a certificate; (3) represent such person falsely as, or  
44 impersonate, a registered new home construction contractor; (4) use or  
45 attempt to use a certificate which has expired or which has been  
46 suspended or revoked; (5) engage in the business of a new home  
47 construction contractor or hold himself or herself out as a new home  
48 construction contractor without having a current certificate of  
49 registration under sections 20-417a to 20-417i, inclusive, and subsection  
50 (b) of section 20-421; (6) represent in any manner that such person's  
51 registration constitutes an endorsement of the quality of such person's  
52 work or of such person's competency by the commissioner; or (7) fail  
53 to refund a deposit paid to a new home construction contractor not  
54 later than ten days after a written request mailed or delivered to the  
55 new home construction contractor's last known address, if (A) the  
56 consumer has complied with the terms of the written contract up to the  
57 time of the request, (B) no substantial portion of the contracted work  
58 has been performed at the time of the request, (C) more than thirty  
59 days has elapsed since the starting date specified in the written  
60 contract or more than thirty days has elapsed since the date of the  
61 contract if such contract does not specify a starting date, and (D) the  
62 new home construction contractor has failed to provide a reasonable  
63 explanation to the consumer concerning such contractor's failure to  
64 perform a substantial portion of the contracted work. For purposes of  
65 this subdivision, "substantial portion of the contracted work" [includes,  
66 but is not limited to, work performed by the new home construction  
67 contractor to (i) secure permits and approvals, (ii) redraft plans or  
68 obtain engineer, architect, surveyor or other approvals for changes  
69 requested by the consumer or made necessary by site conditions  
70 discovered after the contract is executed, (iii) schedule site work or  
71 arrange for other contractors to perform services related to the  
72 construction of the consumer's new home, and (iv) do any other work  
73 referred to in the contract as a "substantial portion of the contracted  
74 work"] means securing the necessary permits and approvals,  
75 performing the actual excavation of the property and constructing at  
76 least a portion of the new home.

77 Sec. 3. Section 20-417e of the general statutes is repealed and the  
78 following is substituted in lieu thereof (*Effective October 1, 2003*):

79 In addition to any other remedy provided for in sections 20-417a to  
80 20-417i, inclusive, and subsection (b) of section 20-421, any person who  
81 violates any provision of subsection (d) of section 20-417d [, except  
82 subdivision (7) of said subsection (d)] shall be guilty of a class A  
83 misdemeanor. Notwithstanding subsection (d) of section 53a-29 or  
84 section 54-56e, if the court determines that a contractor cannot fully  
85 repay any victim of the violations committed by the contractor within  
86 the period of probation established in subsection (d) of section 53a-29  
87 or section 54-56e, the court may impose probation for a period of not  
88 more than five years. Any person who violates the provisions of  
89 subdivision (7) of subsection (d) of section 20-417d shall be liable for  
90 treble damages.

91 Sec. 4. Subsection (b) of section 20-427 of the general statutes is  
92 repealed and the following is substituted in lieu thereof (*Effective*  
93 *October 1, 2003*):

94 (b) No person shall: (1) Present or attempt to present, as [his] such  
95 person's own, the certificate of another, (2) knowingly give false  
96 evidence of a material nature to the commissioner for the purpose of  
97 procuring a certificate, (3) represent himself falsely as, or impersonate,  
98 a registered home improvement contractor or salesman, (4) use or  
99 attempt to use a certificate which has expired or which has been  
100 suspended or revoked, (5) offer to make or make any home  
101 improvement without having a current certificate of registration under  
102 this chapter, (6) represent in any manner that [his] such person's  
103 registration constitutes an endorsement of the quality of [his] such  
104 person's workmanship or of [his] such person's competency by the  
105 commissioner, (7) employ or allow any person to act as a salesman on  
106 [his] such person's behalf unless such person is registered as a home  
107 improvement salesman, or (8) fail to refund the amount paid for a  
108 home improvement within ten days of a written request mailed or

109 delivered to the contractor's last known address, if no substantial  
110 portion of the contracted work has been performed at the time of the  
111 request and more than thirty days has elapsed since the starting date  
112 specified in the written contract, or more than thirty days has elapsed  
113 since the date of the contract if such contract does not specify a starting  
114 date.

115 Sec. 5. Section 42-135a of the general statutes is repealed and the  
116 following is substituted in lieu thereof (*Effective October 1, 2003*):

117 No agreement of the buyer in a home solicitation sale shall be  
118 effective if it is not signed [and dated] by the buyer or does not contain  
119 the date of the transaction or if the seller shall:

120 (1) Fail to furnish the buyer with a fully completed receipt or copy  
121 of all contracts and documents pertaining to such sale at the time of its  
122 execution, which contract shall be in the same language as that  
123 principally used in the oral sales presentation and which shall show  
124 the date of the transaction and shall contain the name and address of  
125 the seller, and in immediate proximity to the space reserved in the  
126 contract for the signature of the buyer, or on the front page of the  
127 receipt if a contract is not used, and in boldface type of a minimum  
128 size of ten points, a statement in substantially the following form:

129 YOU, THE BUYER, MAY CANCEL THIS TRANSACTION AT ANY  
130 TIME PRIOR TO MIDNIGHT OF THE THIRD BUSINESS DAY AFTER  
131 THE DATE OF THIS TRANSACTION. SEE THE ATTACHED  
132 NOTICE OF CANCELLATION FORM FOR AN EXPLANATION OF  
133 THIS RIGHT.

134 (2) Fail to furnish each buyer, at the time [he] such buyer signs the  
135 home solicitation sales contract or otherwise agrees to buy consumer  
136 goods or services from the seller, a completed form in duplicate,  
137 captioned "NOTICE OF CANCELLATION", which shall be attached to  
138 the contract or receipt and easily detachable, and which shall contain  
139 in ten-point boldface type the following information and statements in

140 the same language as that used in the contract:

141 NOTICE OF CANCELLATION

142

143 .... (Date of Transaction)

144

145 YOU MAY CANCEL THIS TRANSACTION, WITHOUT ANY  
146 PENALTY OR OBLIGATION, WITHIN THREE BUSINESS DAYS  
147 FROM THE ABOVE DATE.

148 IF YOU CANCEL, ANY PROPERTY TRADED IN, ANY  
149 PAYMENTS MADE BY YOU UNDER THE CONTRACT OR SALE,  
150 AND ANY NEGOTIABLE INSTRUMENT EXECUTED BY YOU WILL  
151 BE RETURNED WITHIN TEN BUSINESS DAYS FOLLOWING  
152 RECEIPT BY THE SELLER OF YOUR CANCELLATION NOTICE,  
153 AND ANY SECURITY INTEREST ARISING OUT OF THE  
154 TRANSACTION WILL BE CANCELLED.

155 IF YOU CANCEL, YOU MUST MAKE AVAILABLE TO THE  
156 SELLER AT YOUR RESIDENCE, IN SUBSTANTIALLY AS GOOD  
157 CONDITION AS WHEN RECEIVED, ANY GOODS DELIVERED TO  
158 YOU UNDER THIS CONTRACT OR SALE; OR YOU MAY, IF YOU  
159 WISH, COMPLY WITH THE INSTRUCTIONS OF THE SELLER  
160 REGARDING THE RETURN SHIPMENT OF THE GOODS AT THE  
161 SELLER'S EXPENSE AND RISK.

162 IF YOU DO MAKE THE GOODS AVAILABLE TO THE SELLER  
163 AND THE SELLER DOES NOT PICK THEM UP WITHIN TWENTY  
164 DAYS OF THE DATE OF CANCELLATION, YOU MAY RETAIN OR  
165 DISPOSE OF THE GOODS WITHOUT ANY FURTHER  
166 OBLIGATION. IF YOU FAIL TO MAKE THE GOODS AVAILABLE  
167 TO THE SELLER, OR IF YOU AGREE TO RETURN THE GOODS TO  
168 THE SELLER AND FAIL TO DO SO, THEN YOU REMAIN LIABLE  
169 FOR PERFORMANCE OF ALL OBLIGATIONS UNDER THE  
170 CONTRACT.

171 TO CANCEL THIS TRANSACTION, MAIL OR DELIVER A  
172 SIGNED AND DATED COPY OF THIS CANCELLATION NOTICE  
173 OR ANY OTHER WRITTEN NOTICE, OR SEND A TELEGRAM TO  
174 .... (Name of Seller) AT .... (Address of Seller's Place of Business) NOT  
175 LATER THAN MIDNIGHT OF .... (Date)

176 I HEREBY CANCEL THIS TRANSACTION.

177 .... (Date)

178 ..... (Buyer's Signature)

179 (3) Fail, before furnishing copies of the "Notice of Cancellation" to  
180 the buyer, to complete both copies by entering the name of the seller,  
181 the address of the seller's place of business, the date of the transaction,  
182 and the date, not earlier than the third business day following the date  
183 of the transaction, by which the buyer may give notice of cancellation.

184 (4) Include in any home solicitation sale contract or receipt any  
185 confession of judgment or any waiver of any of the rights to which the  
186 buyer is entitled under this chapter, including specifically [his] such  
187 buyer's right to cancel the sale in accordance with the provisions of this  
188 section.

189 (5) Fail to inform each buyer, orally, at the time [he] such buyer  
190 signs the contract or purchases the goods or services, of [his] such  
191 buyer's right to cancel.

192 (6) Misrepresent in any manner the buyer's right to cancel.

193 (7) Fail or refuse to honor any valid notice of cancellation by a buyer  
194 and within ten business days after the receipt of such notice, to (A)  
195 refund all payments made under the contract or sale; (B) return any  
196 goods or property traded in, in substantially as good condition as  
197 when received by the seller; (C) cancel and return any negotiable  
198 instrument executed by the buyer in connection with the contract or  
199 sale and take any action necessary or appropriate to terminate  
200 promptly any security interest created in the transaction; and (D)

201 cancel and return any contract executed by the buyer in connection  
202 with the transaction.

203 (8) Negotiate, transfer, sell, or assign any note or other evidence of  
204 indebtedness to a finance company or other third party prior to  
205 midnight of the fifth business day following the date the contract was  
206 signed or the goods or services purchased.

207 (9) Fail, within ten business days of receipt of the buyer's notice of  
208 cancellation, to notify [him] such buyer whether the seller intends to  
209 repossess or to abandon any shipped or delivered goods.

This act shall take effect as follows:	
Section 1	<i>October 1, 2003</i>
Sec. 2	<i>October 1, 2003</i>
Sec. 3	<i>October 1, 2003</i>
Sec. 4	<i>October 1, 2003</i>
Sec. 5	<i>October 1, 2003</i>

***Statement of Purpose:***

To clarify various provisions of the New Home Construction Act and the Home Improvement Contractor Act and to harmonize the Home Solicitation Sales Act with the Home Improvement Contractor Act.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*